

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRYSTAL RAYMOND and
RICHARD RAYMOND, JR., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BARBARA RAYMOND,

Respondent-Appellant,

and

RICHARD RAYMOND, SR.,

Respondent.

UNPUBLISHED

March 2, 2004

No. 249765

St. Clair Circuit Court

Family Division

LC No. 01-000584-NA

Before: Borrello, P.J., and White and Smolenski, JJ.

PER CURIAM.

Respondent-appellant Barbara Raymond appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (c)(ii), (g), and (j). We affirm.

Respondent-appellant argues that the trial court erroneously terminated her parental rights because petitioner failed to prove a statutory ground for termination by clear and convincing evidence. She also argues that termination of her parental rights was clearly not in the children's best interests. We disagree.

A statutory ground for termination must be proven by clear and convincing evidence. MCR 5.974(A) and (F)(3)¹; *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989); see

¹ The court rules governing child protective proceedings were amended and recodified as part of new MCR subchapter 3.900, effective May 1, 2003. This opinion refers to the rules in effect at the time the termination hearing began.

also MCL 712A.19b(1). The trial court's findings of fact are reviewed for clear error. MCR 5.974(I); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). Due regard is given to the trial court's special opportunity to judge the credibility of witnesses. MCR 2.613(C); *In re Miller*, *supra* at 337. Once a statutory ground for termination is established, the court shall order termination of parental rights unless the court finds that termination is clearly not in the child's best interests. MCL 712A.19b(5). That determination is to be based on the evidence on the whole record, and is reviewed for clear error. *In re Trejo*, 462 Mich 341, 353-354, 356; 612 NW2d 407 (2000).

The evidence disclosed that the daughter informed respondent-appellant in March 2001, that she was being sexually abused by her older brother, and further disclosed that the brother continued to have sexual intercourse with the daughter as late as September 2001. There was clear and convincing evidence that respondent-appellant had an opportunity to prevent further sexual abuse by the brother and failed to do so. Additionally, respondent-appellant refused to sever ties with the daughter's father, who was convicted of sexually abusing the daughter. Respondent-appellant also refused to immediately move out of the home where she and a younger son were staying after learning that another convicted sex offender was living in the home. The trial court found that even during her testimony, respondent-appellant showed no empathy or understanding of the emotional damage to her daughter, or of how her reunification plans would affect her. We hold that the trial court did not clearly error in finding that §§ 19b(3)(b)(ii), (g), and (j) were each established by clear and convincing evidence. Because termination may be supported by only a single statutory ground, *In re Sours*, 459 Mich 624, 641; 593 NW2d 520 (1999), we need not decide whether termination was also warranted under § 19b(3)(c)(ii).

Finally, particularly given the evidence presented in this case, we find that the trial court did not clearly err in concluding that the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, *supra*.

Affirmed.

/s/ Stephen L. Borrello
/s/ Helene N. White
/s/ Michael R. Smolenski